

Application No. 10/775,519
Response and Amendment dated March 29, 2006
Reply to Advisory Action of January 20, 2006
Docket Number 18525/04071

REMARKS

Claims 1-6 and 21-36 are pending in this application. Claims 2 and 21 are objected to, and claims 1-6 and 21-22 are rejected. Claims 1, 3, 4, 5, and 6 are hereby amended. Claims 2 and 21 are hereby cancelled. Claims 23-36 are new. The amendments do not constitute new matter. In view of the above-described amendments and following remarks, reconsideration of claim 1, and claims 3-6 is requested and consideration of new claims 23-36 is also respectfully requested.

Claim Objections

In the Office Action mailed November 1, 2005, the Examiner objected to claim 2 because of incorrect punctuation. Claim 2 has been cancelled, rendering this objection moot. The Examiner also objected to claim 21 under 37 C.F.R. 1.75(c) for failing to further limit the subject matter of a previous claim. Claim 21 is also hereby cancelled, rendering this objection moot.

Section 112 Rejections

In the Office Action dated November 1, 2005, the Examiner had rejected claims 1-6, 21, and 22 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner stated that there was insufficient disclosure for the claimed "means for determining the particle sizes of the materials comprising said layers," "means for determining the fluid retention properties of said layers based on said particle size," and "means for inserting said drainage members into said layered profile at substantially regular intervals to form an array." Applicant's amendments dated December 27, 2005, addressing these Section 112 rejections, were not entered as indicated by the Advisory Action dated January 20, 2006.

In response to the Advisory Action, the Applicant hereby amends claim 1 to recite: "A system for draining fluid from a layered soil profile having a sandy root zone layer above a gravel layer, comprising: a plurality of elongated porous drainage members, each individual drainage member comprising a length of fiberglass having a distribution of pore sizes compatible with predetermined particle sizes and fluid retention properties of the layered soil profile, the plurality of drainage members positioned in the layered soil profile at substantially regular intervals forming an array, each of the drainage members extending from the root zone layer

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substantially through the gravel layer to provide a substantially continuous porous pathway for draining fluid from the layered soil profile." It is believed that claim 1, as amended, overcomes the Section 112 rejections, as all "means" language has been eliminated from the claim. New claims 23-36 have also been drafted so as to avoid similar Section 112 problems.

Section 103 Rejections

1. In the Office Action dated November 1, 2005, the Examiner rejected claims 1, 3-6, and 22 under 35 U.S.C. 103(a) as being unpatentable over Yamashita, et al. (U.S. Patent No. 4,451,175) (hereinafter "Yamashita") in view of Applicant's admitted prior art on page 6, lines 27-29 of the specification.

The Examiner has indicated that claim 2 would be allowable, if rewritten to overcome the Section 112 rejections and claim objection, because Yamashita does not disclose a first layer of a soil profile comprising a sandy root zone and a second layer comprising a gravel layer. Claim 1 has been amended so as to include the limitation of claim 2. Accordingly, claim 2 is hereby cancelled. It is believed that this amendment to claim 1 overcomes the 103(a) rejection.

2. Claim 21 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Applicant's admitted prior art on page 6, lines 27-29 of the specification and further in view of Plowman et al. (U.S. Patent No. 5,458,436).

As stated above, claim 21 is hereby cancelled and thus this ground of rejection is rendered moot.

Applicant respectfully submits that claims 1, 3-6 and 23-36 are in condition for allowance. Prompt notice of such allowance is respectfully requested.

This amendment is filed with a petition for extension of time of one month, in duplicate, and authorization to charge our deposit account for the required fee. Should any other fees be due in this case, or any further extensions of time be required, Applicant hereby requests such extensions and grants the Commissioner authorization to charge such fees, and to credit any overpayments to deposit account 03-0172.

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Respectfully submitted,

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